UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FASCINATIONS, INC. Plaintiff, v. NELSON LEUNG, D/B/A MCDULLUSA LLC Defendant.	17-cv-2817 COMPLAINT Jury Trial Demanded

The Parties

1. Plaintiff, Fascinations Inc. ("Fascinations"), is a Washington State Corporation with a place of business at 19224 Des Moines Memorial Dr, Suite 100, Seattle , WA 98148

2. Upon information and belief, Defendant is an individual domiciled at and/or with a place of business at 6510 New Utrecht Ave, Brooklyn, NY 11219.

3. Upon information and belief, McDullUSA LLC is not in fact a limited liability company but instead is a fictitious entity under which Mr. Leung conducts business.

Nature Of Action

4. This is an action for copyright infringement under 17 U.S.C. § 501.

Jurisdiction And Venue

5. Subject matter jurisdiction is proper pursuant to 28 U.S.C. §§ 1331 and 1338.

6. Personal jurisdiction is proper under CPLR 301 because Defendant resides and/or has a place of regular business within New York State.

7. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).

8. Jurisdiction and venue are further proper pursuant to Defendant's written consent to jurisdiction and venue in this district pursuant to 17 U.S.C. § 512(g)(3)(D)

Facts

9. Fascinations is owner of registered and un-registered copyrights in sculptural works sold as kits for three-dimensional models (the "Copyrighted Works").

10. In or about late April, 2017, Fascinations learned that Defendant was offering for sale and selling unauthorized, literal copies of the Copyrighted Works on the online marketplace website Etsy.com. Specifically, Fascinations identified the following infringing items of Defendant on Etsy.com (the "Infringing Listings").

Item ID	Listing URL	Work Title (Registration No.)
479978936	https://www.etsy.com/listing/479978936/3d-laser-cut-metal-metallic-nano-puzzle	1965 Ford Mustang
496741645	https://www.etsy.com/listing/496741645/3d-laser-cut-metal-metallic-nano-puzzle	Arc De Triomphe (VA 1-823-792)
482617526	https://www.etsy.com/listing/482617526/3d-laser-cut-metal-metallic-nano-puzzle	AT-AT
475551300	https://www.etsy.com/listing/475551300/3d-laser-cut-metal-metallic-nano-puzzle	Beach Buggy (VA 1-848-195)
483244434	https://www.etsy.com/listing/483244434/3d-laser-cut-metal-metallic-nano-puzzle	Big Ben (VA 1-823-794)
479977610	https://www.etsy.com/listing/479977610/3d-laser-cut-metal-metallic-nano-puzzle	Cable Car (VA 1-848-176)
496742765	https://www.etsy.com/listing/496742765/3d-laser-cut-metal-metallic-nano-puzzle	Capitol Building (VA 1-857-257)
479977918	https://www.etsy.com/listing/479977918/3d-laser-cut-metal-metallic-nano-puzzle	Checker Cab (VA 1-848-192)
479986558	https://www.etsy.com/listing/479986558/3d-laser-cut-metal-metallic-nano-puzzle	ChiHa Tank (VA 1-850-225)

Item ID	Listing URL	Work Title (Registration No.)
496739149	https://www.etsy.com/listing/496739149/3d-laser-cut-metal-metallic-nano-puzzle	Chrysler Building (VA 1-848-177)
496743245	https://www.etsy.com/listing/496743245/3d-laser-cut-metal-metallic-nano-puzzle	Dragonfly (VA 1-890-358)
482616768	https://www.etsy.com/listing/482616768/3d-laser-cut-metal-metallic-nano-puzzle	DV Tie Fighter
496115257	https://www.etsy.com/listing/496115257/3d-laser-cut-metal-metallic-nano-puzzle	Eiffel Tower (VA 1-848-187)
483243792	https://www.etsy.com/listing/483243792/3d-laser-cut-metal-metallic-nano-puzzle	Empire State Building (VA 1-848-190)
475553390	https://www.etsy.com/listing/475553390/3d-laser-cut-metal-metallic-nano-puzzle	Farm Tractor (VA 1-857-249)
496117403	https://www.etsy.com/listing/496117403/3d-laser-cut-metal-metallic-nano-puzzle	Goju No Tou (VA 1-831-777)
475546860	https://www.etsy.com/listing/475546860/3d-laser-cut-metal-metallic-nano-puzzle	Golden Hind (VA 1-850-227)
489045573	https://www.etsy.com/listing/489045573/3d-laser-cut-metal-metallic-nano-puzzle	Graf Zeppelin (VA 1-890-338)
496117895	https://www.etsy.com/listing/496117895/3d-laser-cut-metal-metallic-nano-puzzle	Himeji Castle (VA 1-857-259)
496116615	https://www.etsy.com/listing/496116615/3d-laser-cut-metal-metallic-nano-puzzle	Leaning Tower of Pisa (VA 1-831-251)
482617856	https://www.etsy.com/listing/482617856/3d-laser-cut-metal-metallic-nano-puzzle	London Tower Bridge (VA 1-823-307)
482615962	https://www.etsy.com/listing/482615962/3d-laser-cut-metal-metallic-nano-puzzle	Millennium Falcon
496118231	https://www.etsy.com/listing/496118231/3d-laser-cut-metal-metallic-nano-puzzle	Neuschwanstein Castle (VA 1-848-178)
479980056	https://www.etsy.com/listing/479980056/3d-laser-cut-metal-metallic-nano-puzzle	Nissan Fairlady 2D
496742275	https://www.etsy.com/listing/496742275/3d-laser-cut-metal-metallic-nano-puzzle	Parthenon (VA 1-857-263)

Item ID	Listing URL	Work Title (Registration No.)
496112463	https://www.etsy.com/listing/496112463/3d-laser-cut-metal-metallic-nano-puzzle	R2-D2
493482367	https://www.etsy.com/listing/493482367/3d-laser-cut-metal-metallic-nano-puzzle	Sherman Tank (VA 1-850-230)
482618530	https://www.etsy.com/listing/482618530/3d-laser-cut-metal-metallic-nano-puzzle	Space Needle (VA 1-848-189)
489047805	https://www.etsy.com/listing/489047805/3d-laser-cut-metal-metallic-nano-puzzle	Staten Island Ferry (VA 1-848-191)
479977052	https://www.etsy.com/listing/479977052/3d-laser-cut-metal-metallic-nano-puzzle	Steam Locomotive (VA 1-831-254)
475554578	https://www.etsy.com/listing/475554578/3d-laser-cut-metal-metallic-nano-puzzle	Steam Locomotive (VA 1-831-254)
483246144	https://www.etsy.com/listing/483246144/3d-laser-cut-metal-metallic-nano-puzzle	Sydney Opera House (VA 1-850-229)
479985996	https://www.etsy.com/listing/479985996/3d-laser-cut-metal-metallic-nano-puzzle	T-34 Tank (VA 1-850-224)
483269906	https://www.etsy.com/listing/483269906/3d-laser-cut-metal-metallic-nano-puzzle	Tarantula (VA 1-890-352)
479985540	https://www.etsy.com/listing/479985540/3d-laser-cut-metal-metallic-nano-puzzle	Tiger I Tank (VA 1-857-262)
489049897	https://www.etsy.com/listing/489049897/3d-laser-cut-metal-metallic-nano-puzzle	Tin Lizzie (1908 Model T Ford) (VA 1-857-248)
475547670	https://www.etsy.com/listing/475547670/3d-laser-cut-metal-metallic-nano-puzzle	Titanic (VA 1-831-261)
483247162	https://www.etsy.com/listing/483247162/3d-laser-cut-metal-metallic-nano-puzzle	White house (VA 1-823-311)
496115957	https://www.etsy.com/listing/496115957/3d-laser-cut-metal-metallic-nano-puzzle	Windmill (VA 1-823-730)
482616318	https://www.etsy.com/listing/482616318/3d-laser-cut-metal-metallic-nano-puzzle	X-Wing Fighter

11. On May 4, 2017, Fascinations sent notice to Etsy.com under 17 U.S.C. § 512(c) identifying the Infringing Listings as infringing and demanding pursuant to 17 U.S.C. § 512 that the infringing listings be removed and all access to them be blocked. Etsy.com complied with the notice.

12. On or about May 5, 2017, Etsy.com notified Fascinations that it had received a counter notification from Defendant pursuant to 17 U.S.C. § 512(g). In the counter notification, Defendant stated under penalty of perjury that he had "a good faith belief that the material was removed or disabled by mistake or because of misidentification of the material."

13. Upon information and belief, Defendant knew that the statement in the counter notification was false.

14. Subsequent to receiving notice from Etsy.com that Defendant had submitted the counter notification, Fascinations learned that Defendant owns and operates a website at <mcdullusa.com> (the "McDullUSA Site"). Defendant offers offers for sale and sells unauthorized, literal copies of the Copyrighted Works on the McDullUSA Site.

15. Defendant states on the McDullUSA Site that "All designs are registered Copyright of Piece Fun Inc. enforces its copyrights to the full extent of the law." Upon information and belief, Defendant knows this statement to be false.

16. Upon information and belief, the McDullUSA Site is hosted by Yahoo, Inc.

First Count
Copyright Infringement Under 17 U.S.C. § 501

17. Plaintiff realleges the allegations contained in the above paragraphs as if stated fully herein.

18. By virtue of offering for sale, selling and distributing the aforementioned infringing works, Defendant infringes Fascinations' copyrights in the Copyrighted Works.

19. Defendant, having been put on actual and constructive notice of Plaintiff's copyrights and further continuing to infringe such rights, has willfully and intentionally infringed Plaintiff's copyrights.

20. Plaintiff has been and continues to be harmed by such infringement.

Prayer For Relief

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in favor Plaintiff:

a. awarding actual damages to Plaintiff for Defendant's copyright infringement under 17 U.S.C. § 504(b), in an amount to be determined;

b. awarding statutory damages to Plaintiff for Defendant's copyright infringement under 17 U.S.C. § 504(c), in an amount to be determined;

c. awarding to Plaintiff for Defendant's profits attributable to its copyright infringement under 17 U.S.C. § 504(b), in an amount to be determined;

d. awarding enhanced damages to Plaintiff in an amount of $150,000 per infringement pursuant to 17 U.S.C. § 504(c)(2);

e. awarding Plaintiff its costs and attorneys' fees pursuant to 17 U.S.C. § 505;

f. permanently enjoining Defendants pursuant to 17 U.S.C. § 502 from further infringement of Fascinations' copyrights;

g. ordering the destruction of infringing works pursuant to 17 U.S.C. § 503; and

h. providing all other equitable relief that the Court deems just and proper.

Dated: May 9, 2017

Plaintiff Fascinations, Inc.
by its attorney,

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